

## REMARKS/ARGUMENTS

Applicant responds herein to the Office Action dated September 25, 2003.

Responsive to the Office Action, the Abstract has been amended in a manner which should cause the Examiner to withdraw the objection to the Abstract.

Substantively, claims 1-20 and 28-43 stand rejected on the grounds of anticipation under 35 U.S.C. §102(e) by Nedic et al. (U.S. Patent No. 6,563,841). Further, claims 21-27 and 44-50 are asserted to be obvious over Djokovic (U.S. Patent No. 6,097,763) in view of Ono (U.S. Patent No. 6,302,576). Reconsideration is requested in view of the following remarks.

Firstly, and with respect to the rejection of claims 1-20 and 28-43, reconsideration and withdrawal of this rejection is requested not only because of the work that the Examiner seeks to rely upon represents the work of the instant inventor, but more specifically because pursuant to 35 U.S.C. §103(c):

Subject matter developed by another person, which qualifies as prior art only under one or more subsections (e), (f) and (g) of §102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

In the instant application, the Examiner is relying on Nedic et al. 6,563,841 under 35 U.S.C. §102(e), when in fact that patent on its face indicates the assignee to be identical with the assignee of the present application. Therefore, claims 1-20 and 28-43 should now be formally allowed.

Respecting the rejection of claims 21-27 and 44-50, these claims are directed to a receiver circuit with a claimed "second stage for receiving an output signal from said first stage and per-bin decoding said signal based on a maximum likelihood sequence estimation (MLSE) algorithm so as to recover said digital data...". It is contended in the Office Action (at page 9) that the primary Djokovic reference "utilizes a maximum likelihood sequence estimation (MSLE)" (Sic), referring the applicant to column 3, lines 54-63 of that patent. In point in fact, however, that patent does not actually utilize that technique, but is merely referring to the fact that it is well known that an equalizer trained by the time-domain LMS algorithm, the most commonly used

training algorithm, minimizes the total MSE referring to an article authored in the Bell System Tech. Journal, vol. 52, No. 9, pp. 1541-1562.

The present invention is comprised of a judicious selection of certain known techniques as set forth at pages 3-5 of the instant specification. The Djokovic reference used as the primary document in the rejection provides a unique MMSE equalizer solution that accounts for both ISI and noise. It does not, however, describe or mention MLSE as the technique being used in combination with other elements. Therefore, the present invention of claims 21-27 and 44-50 would not be rendered obvious in light of the prior art of record. Nor is there any basis for making the combination of the present invention other than through the utilization of hindsight based on facts gleaned from the instant specification. Therefore, it is believed and respectfully submitted that all of the claims in the application clearly distinguish over the prior art of record.

Accordingly, the Examiner is respectfully requested to reconsider the application, allow the claims as amended and pass this case to issue.

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on December 18, 2003:

Max Moskowitz

Name of applicant, assignee or  
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Signature

December 18, 2003

Date of Signature

MM:cg

Respectfully submitted,

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